

Court of Appeals, Division One
Civil - Settlement Conference

1 CA-CV 15-0270 ELSC

PEORIA et al. v. MELCOR et al.

Appellate Case Information

Case Filed: 28-Apr-2015
Case Closed:

Dept/Composition

Dept. C - Oct. 13, 2015

Hon. Maurice Portley
Hon. John C Gemmill
Hon. Samuel A Thumma

Consolidated with: 1 CA-CV 15-0271 ELSC

**Side 1. PEORIA CITIZENS COMMITTEE IN OPPOSITION TO PASSAGE OF BALLOT MEASURE FOR ORDINANCE NO. 2014-08, REFERENDUM
SERIAL NO. REF 14-01, et al., Plaintiff/Appellant**

(Litigant Group) PEORIA CITIZENS COMMITTEE et al.

- Peoria Citizens Committee, Plaintiff/Appellee-Cross Appellant
- Steven D Campbell, Plaintiff/Appellee-Cross Appellant
- J D Campbell, Plaintiff/Appellee-Cross Appellant

Attorneys: Appellee-Cross Appellants PCC et al

Lisa T Hauser, Esq. (AZ Bar No. 6985)

Side 2. RHONDA GERIMINSKY, et al., Defendant/Appellee

(Litigant Group) CITY OF PEORIA, et al.

- Rhonda Geriminsky, Defendant/Appellant, Appellee, Cross-Appellee
- City of Peoria, Defendant/Appellant, Appellee, Cross-Appellee

Co-Counsel: Appellants/Appellees City of Peoria

Melinda A Bird, Esq. (AZ Bar No. 13163)

Ellen M Van Riper, Esq. (AZ Bar No. 11751)

Stephen J Burg, Esq. (AZ Bar No. 12073)

(Litigant Group) HELEN PURCELL et al.

- Helen Purcell
- Karen Osborne
- Maricopa County Board of Supervisors

Attorneys for: Appellant Purcell et al

Edward W France, III, Esq. (AZ Bar No. 20451)

M Colleen Connor, Esq. (AZ Bar No. 15679)

Side 3. MELCOR DEVELOPMENTS ARIZONA, INC., et al., Intervenor/Appellant

(Litigant Group) MELCOR DEVELOPMENTS ARIZONA, INC., et al.

- Melcor Developments Arizona Inc, Real Party in Interest, Appellee, Cross-Appellee
- Dustin Nelson, Real Party in Interest, Appellee, Cross-Appellee

Attorneys for: Appellants/Cross Appellees Melcor

Kory A Langhofer, Esq. (AZ Bar No. 24722)

Thomas J Basile, Esq. (AZ Bar No. 31150)

PREDECESSOR CASE(S)		Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR	CV2014-006879			John Christian Rea, Authoring Judge of Order		
MAR	CV2014-007169			John Christian Rea, Authoring Judge of Order		

OPEN DUE DATE

Court Ordered Document due

Due By:

Tuesday, January 31, 2017

Joint Status Report

Re: * ORDERED: continuing date by which a motion to dismiss shall be filed to 01/31/2017. FURTHER
ORDERED: if no motion to dismiss is filed by 01/31/2017, parties shall file a joint status report by that date
apprising court of their progress in fulfilling te

70 PROCEEDING ENTRIES

- 28-Apr-2015 FILED: Melcor Developments Arizona, Inc. and Dustin Nelson's Rule 10 Statement in Expedited Election Matter and Request for Scheduling Conference; Certificate of Service (Appellant)
- 29-Apr-2015 FILED: Cross-appellants' Rule 10 Statement In Expedited Election Matter And Request For Scheduling Conference; Cross-appellants' Certificate Of Service Of Rule 10 Statement In Expedited Election Matter And Request For Scheduling Conference; Notice Of Cross-appeal (Cross-Appellant)
- 1-May-2015 FILED: Additional Record on Appeal:
Exhibits: HD 5/27/14 - List and # 1 2 3 4 5 6 7 8 9 10 11 12 13 14 19 20 21 22 23 24 25 26 28 29 30 31 32 33 34 41 42 43 44 45 46 47 51 in a large box.

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4. 1-May-2015 FILED: e-Record on Appeal (CV2014-007169):
Instruments/Minute Entries
5. 1-May-2015 FILED: e-Record on Appeal (CV2014-007169):
Instruments/Minute Entries
6. 1-May-2015 RECEIPT No.: 2015-00578 ; \$280.00, Authorization: #20020734595, Applied to: MELCOR DEVELOPMENTS ARIZONA, INC., et al. - Class A Filing Fee (\$280.00) Paid for: Brownstein Hyatt Farber Schreck LLP - By Integrated Resource Systems IN
7. 1-May-2015 FILED: Joint Motion to Consolidate and Stipulation of Parties; Certificate of Service_Joint Motion to Consolidate; Exhibit A to Joint Motion to Consolidate (Cross-Appellant)
8. 1-May-2015 FILED: Notice of Substitution of Appendix 1 to Cross-Appellants' Rule 10 Statement in Expedited Election Matter and Request for Scheduling Conference; Certificate of Service of Notice of Substitution of Appendix 1 to Cross-Appellants' Rule 10 Statement in Expedited Election Matter and Request for Rescheduling Conference; (Revised Appendix 1 to Rule 10 Statement) Notice of Cross-Appeal filed 4/30/15 in Maricopa County Superior Court (Appellees/Cross-Appellants)
9. 4-May-2015 RECEIPT No.: 2015-00594 ; \$280.00, Authorization: #24002716919, Applied to: PEORIA CITIZENS COMMITTEE et al. - Class A Filing Fee (\$280.00) Paid for: The Doyle Firm PC - By Integrated Resource Systems IN
10. 6-May-2015 ORDERED: adopting following schedule for filing briefs: Appellants' opening briefs due 6/5/15; Appellees' answering briefs/Cross-Appellants' opening briefs due on 7/6/15; Appellants' reply briefs/Cross-Appellees' answering briefs due on 8/3/15 and Cross-Appellants' reply briefs due on 8/18/15. Parties are encouraged to join arguments/briefs where possible. FURTHER ORDERED: Granting stipulated motion to consolidate cases 1 CA-CV 15-0270 and 1 CA-CV 15-0271. Case 1 CA-CV 15-0270 is designated primary number. Hon Diane M Johnsen - Author
11. 7-May-2015 FILED: Memorandum: Judge Thumma for Judge Brown (Judge Johnsen)
12. 12-May-2015 FILED: Notice of Substitution of Attorney; Certificate of Service of Notice of Substitution of Attorney (Appellees/Cross-Appellants Purell, et al.)
13. 12-May-2015 FILED: Supplemented Superior Court e-Record with Revised Index of Record (including City of Peoria Defendant's Notice of Appeal and Cross-Appeal filed 4/30/15)
14. 18-May-2015 FILED: Reporter's Transcript of Proceedings - 05/28/2014 - Bench Trial (Kristi K Week)
15. 22-May-2015 FILED: Notice of Filing and Serving Transcripts; Certificate of Service (Appellant)
16. 22-May-2015 FILED: Reporter's Transcript of Proceedings 6/11/14 (Erin K Perkins; Linda Gundelach) (Appellants Melcor Developments/D. Nelson)
17. 22-May-2015 FILED: Reporter's Transcript of Proceedings 10/22/14 (Regina M Wittkowske) (Appellants Melcor Developments/D. Nelson)
18. 22-May-2015 FILED: Reporter's Transcript of Proceedings 11/26/14 (Regina M Wittkowske) (Appellants Melcor Developments/D. Nelson)
19. 22-May-2015 FILED: Reporter's Transcript of Proceedings 12/9/14 (Regina M Wittkowske) (Appellants Melcor Developments/Dustin Nelson)
20. 22-May-2015 FILED: Reporter's Transcript of Proceedings 6/4/14 (Cathy K Dowell) (Appellants Melcor Developments/D. Nelson)
21. 22-May-2015 FILED: Reporter's Transcript of Proceedings 4/23/14 (Antoinette M Franks, Erin Perkins) (Appellant)
22. 22-May-2015 FILED: Reporter's Transcript of Proceedings 5/1/14 (Dianna Aldom) (Appellant)
23. 22-May-2015 FILED: Reporter's Transcript of Proceedings 5/27/14 (Helene Paustian) (Appellant)
24. 22-May-2015 FILED: Reporter's Transcript of Proceedings 5/27/14 (Lydia Estrada-Gray) (Appellant)
25. 5-Jun-2015 FILED: Opening Brief of Melcor Developments Arizona Inc. and Dustin Nelson; Certificate of Compliance; Certificate of Service (Intervenors/Real Parties in Interest/Appellants/Appellees/Cross-Appellees)
26. 5-Jun-2015 FILED: Opening Brief on Appeal City of Peoria Defendants; City of Peoria Defendants Certificate of Compliance for Opening Brief on Appeal; Certificate of Service of Opening Brief on Appeal City of Peoria Defendants (Appellants/Appellees/Cross-Appellees/Cross-Appellants)
27. 24-Jun-2015 FILED: Notice To Court Of No Position; Certificate of Service (Appellees Purcell, et al.)

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| 28. | 6-Jul-2015 | FILED: Response Brief on Appeal City of Peoria Defendants; City of Peoria Defendants' Certificate of Compliance for Response Brief on Appeal; Certificate of Service of City of Peoria Defendants' Response Brief on Appeal (Appellants/Appellees/Cross-Appellees/Cross-Appellants) |
| 29. | 6-Jul-2015 | FILED: City of Peoria's Notice of Intent Not to File an Opening Brief on Cross-Appeal; City of Peoria's Certificate of Service of Notice of Intent Not to File an Opening Brief on Cross-Appeal (Appellants/Appellees/Cross-Appellees/Cross-Appellants) |
| 30. | 6-Jul-2015 | FILED: Appendix to Consolidated Answering Brief and Opening Brief of Appellees/Cross-Appellants Peoria Citizens Committee in Opposition to Passage of Ballot Measure for Ordinance No. 2014-08, Referendum Serial No. Ref 14-01, Steven Campbell, and J.D. Campbell; Certificate of Compliance; Certificate of Service |
| 31. | 6-Jul-2015 | FILED: Appendix to Consolidated Answering Brief and Opening Brief of Appellees/Cross-Appellants Peoria Citizens Committee in Opposition to Passage of Ballot Measure for Ordinance No. 2014-08, Referendum Serial No. Ref 14-01, Steven Campbell, and J.D. Campbell (Duplicate) |
| 32. | 7-Jul-2015 | FILED: Consolidated Answering Brief and Opening Brief of Appellees/Cross-Appellants Peoria Citizens Committee in Opposition to Passage of Ballot Measure for Ordinance No. 2014-08, Referendum Serial No. Ref 14-01, Steven Campbell, and J.D. Campbell; Certificate of Compliance; Certificate of Service |
| 33. | 8-Jul-2015 | ORDERED: amending caption in this appeal by removing designation of "cross-appellants" for City of Peoria and Rhonda Germinsky. FURTHER ORDERED: Amending caption in this appeal by removing designation of "cross-appellees" for plaintiffs and for real party in interest Peoria Citizens Committee in Opposition to Passage of Ballot Measure for Ordinance No. 2014-08, Referendum Serial No Ref 14-01. |
| 34. | 10-Jul-2015 | AMENDED ORDER: (Court has considered Notice of Intent not to file an Opening Brief on Cross Appeal) amending caption in this appeal by removing designation of "cross-appellants" for City of Peoria and Rhonda Germinsky. FURTHER ORDERED: Amending caption in this appeal by removing designation of "cross-appellees" for plaintiffs and for real party in interest Peoria Citizens Committee. Melina Brill ProTem Judge - Author |
| 35. | 11-Jul-2015 | FILED: Motion for Procedural Order to Strike and Replace Committee's; Certificate of Service; Declaration; Certificate of Compliance (Cross-Appellant) |
| 36. | 11-Jul-2015 | FILED: Substitute Consolidated Answering Brief and Opening Brief of Appellees/Cross-Appellants Peoria Citizens Committee in Opposition to Passage of Ballot Measure for Ordinance No. 2014-08, Referendum Serial No. Ref 14-01, Steven Campbell, and J.D. Campbell; Certificate of Compliance; Certificate of Service |
| 37. | 11-Jul-2015 | FILED: Substitute Appendix Consolidated Answering Brief and Opening Brief of Appellees/Cross-Appellants Peoria Citizens Committee in Opposition to Passage of Ballot Measure for Ordinance No. 2014-08, Referendum Serial No. Ref 14-01, Steven Campbell, and J.D. Campbell |
| 38. | 13-Jul-2015 | FILED: Stipulation to Vacate and Extend Deadlines for To Be Filed Briefs; Certificate of Service for Stipulation to Vacate and Extend Deadlines for To Be Filed Briefs (Appellant) |
| 39. | 14-Jul-2015 | ORDERED: Stipulation to Vacate and Extend Deadlines for To Be Filed Briefs; Certificate of Service for Stipulation to Vacate and Extend Deadlines for To Be Filed Briefs (Appellant) = GRANTED/Appellants' reply briefs and Cross-Appellees answering briefs due 8/13/15 and Cross-Appellants' reply brief is due on 8/28/15. Hon Maurice Portley - Author |
| 40. | 23-Jul-2015 | FILED: Melcor Developments Arizona Inc. and Dustin Nelson's Motion to Strike; Certificate of Service (Appellant) |
| 41. | 27-Jul-2015 | FILED: Response to Malcor Developments Arizona, Inc., and Dustin Nelson's Motion to Strike; Certificate of Service (Appellee) |
| 42. | 27-Jul-2015 | FILED: Appellee's ARCAP 3 Motion to Suspend the Rules to Permit Filing of Substitute Consolidated Answering Brief in Excess of 14,000 Words; Certificate of Service (Appellee) |
| 43. | 31-Jul-2015 | FILED: Response to Appellee's ARCAP 3 Motion to Suspend the Rules to Permit Filing of Substitute Consolidated Answer Brief in Excess of 14,000 Words; Certificate of Service (Appellant) |
| 44. | 31-Jul-2015 | FILED: Reply in Support of Melcor Developments Arizona Inc. and Dustin Nelson's Motion to Strike; Certificate of Service (Appellant) |
| 45. | 4-Aug-2015 | FILED: Reply in Support of ARCAP 3 Motion to Suspend the Rules to Permit Filing of Substitute Consolidated Answering Brief in Excess of 14,000 Words; Certificate of Service (Appellee) |
| 46. | 13-Aug-2015 | FILED: City of Peoria Defendants Consolidated Reply Brief on Appeal and Answering Brief on Cross-Appeal; Certificate of Compliance for City of Peoria Defendants Consolidated Reply Brief on Appeal and Answering Brief on Cross-Appeal; Certificate of Service for City of Peoria Defendants Consolidated Reply Brief on Appeal and Answering Brief on Cross-Appeal (Appellant) |
| 47. | 13-Aug-2015 | FILED: Consolidated Reply and Answering Brief of Appellants/Cross-Appellees Melcor Developments Arizona Inc. and Dustin Nelson; Certificate of Compliance; Certificate of Service |

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48. 17-Aug-2015 ORDERED: Melcor Developments Arizona Inc. and Dustin Nelson's Motion to Strike (Appellant) = DENIED. Hon Maurice Portley - Author
49. 17-Aug-2015 ORDERED: Appellee's ARCAP 3 Motion to Suspend the Rules to Permit Filing of Substitute Consolidated Answering Brief in Excess of 14,000 Words (Appellee) = GRANTED and accepting Committee's brief as filed on 7/11/15. Hon Maurice Portley - Author
50. 17-Aug-2015 ORDERED: granting motion to strike Committee's previously filed consolidated answering/opening brief and appendix and replace them with Committees substitute brief and substitute appendix filed w/ court on 7/11/15. Hon Maurice Portley - Author
51. 28-Aug-2015 FILED: Consolidated Reply Briefs Appellees/Cross-Appellants Peoria Citizens Committee in Opposition to Passage of Ballot Measure for Ordinance No. 2014-08, Referendum Serial No. Ref 14-01, Steven Campbell, and J.D. Campbell; Certificate of Compliance; Certificate of Service
52. 28-Aug-2015 FILED: Appendix to Consolidated Reply Briefs Appellees/Cross-Appellants Peoria Citizens Committee in Opposition to Passage of Ballot Measure for Ordinance No. 2014-08, Referendum Serial No. Ref 14-01, Steven Campbell, and J.D. Campbell
53. 1-Sep-2015 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days
54. 11-Sep-2015 FILED: Supplemented Superior Court e-Record with Revised Index of Record
55. 15-Sep-2015 CLNDR: CONFERENCE, Dept. C - Oct. 13, 2015, 10-13-15. (vacated per order filed on 9/24/15 - rsl)
56. 17-Sep-2015 FILED: Brief of Amicus Curiae of the League of Arizona Cities and Towns (filed with written consent of all parties); Certificate of Compliance; Certificate of Service
57. 24-Sep-2015 ORDERED: (Court has selected this appeal for assignment to Settlement Conference Program) vacating conference currently set for 10/13/15. FURTHER ORDERED: Staying appeal until further order. Melina Brill ProTem Judge - Author
58. 29-Sep-2015 ORDERED: (Court will hold an in-person settlement conference) on 10/26/15 at 9:30 am at AZ Courts Building. FURTHER ORDERED: Participants shall have full authority to negotiate and settle case on any agreed-upon terms at conference. FURTHER ORDERED: Each separately represented party shall submit a settlement conference statement to settlementprogram@appeals.az.gov on/before 10/19/15. Hon Diane M Johnsen - Author
59. 2-Oct-2015 FILED: Notice of Change of Address and Law Firm; Certificate of Service (Appellants/Cross Appellees Melcor/Nelson)
60. 17-Nov-2015 ORDERED: Revesting jurisdiction of this matter in Maricopa Superior Court to consider a joint motion for approval of a proposed settlement agreement. FURTHER ORDERED: W/in 10 days after superior court rules on such motion, parties shall file a notice w/ this court w/ ruling attached. FURTHER ORDERED: Directing parties to file a status report concerning status of proposed settlement agreement on/before 1/16/16. FURTHER ORDERED: Continuing stay of appeal pending further order of court. Hon Diane M Johnsen - Author
61. 19-Jan-2016 FILED: Joint Status Report; Certificate of Service of Joint Status Report (Appellee)
62. 20-Jan-2016 ORDERED: Joint Status Report; (Appellee) = if no motion to dismiss appeal is filed by 2/29/16, parties shall apprise court by date of status in superior court of motion for approval of settlement agreement. Hon Diane M Johnsen - Author
63. 29-Feb-2016 FILED: Joint Status Report; Certificate of Service (Appellee)
64. 2-Mar-2016 ORDERED: Joint Status Report (Appellee) = continuing stay of this appeal until 4/18/16. FURTHER ORDERED: If no motion to dismiss appeal is filed by 4/18/16, parties shall apprise court by date of status of their progress toward fulfilling covenants and conditions of their settlement agreement. Hon Diane M Johnsen - Author
65. 15-Apr-2016 FILED: Joint Status Report; Certificate of Service-Joint Status Report (Appellant)
66. 26-Apr-2016 ORDERED: Joint Status Report; (Appellant) = GRANTED and continuing date by which a motion to dismiss shall be filed to 8/23/16. FURTHER ORDERED: If no motion to dismiss is filed by 8/23/16, parties shall file a joint status report by that date apprising court of their progress in fulfilling terms and conditions of their settlement. Hon Diane M Johnsen - Author
67. 12-May-2016 FILED: Supplemented Superior Court e-Record with Revised Index of Record (including Order Nunc Pro Tunc filed 3/7/16 re: ME order entered 2/12/16 is corrected to strike "deceased" in reference to S. Campbell and to state that Plaintiff JD Campbell is deceased.)

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| 68. | 23-Aug-2016 | FILED: Joint Status Report; Certificate of Service (Appellant) |
| 69. | 15-Sep-2016 | FILED: Notice of Substitution of Counsel; Certificate of Service of Notice of Substitution of Counsel (Appellees City of Peoria) |
| 70. | 15-Sep-2016 | ORDERED: continuing date by which a motion to dismiss shall be filed to 01/31/2017. FURTHER ORDERED: if no motion to dismiss is filed by 01/31/2017, parties shall file a joint status report by that date apprising court of their progress in fulfilling terms and conditions of their settlement. Hon Diane M Johnsen - Author |